| 1 2 | SHEPPARD, MULLIN, RICHTER & HAM A Limited Liability Partnership Including Professional Corporations | PTON LLP | | | | | |
|----------|---|----------------------------|--|--|--|--|--|
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| 6 | akuljis@sheppardmullin.com | | | | | | |
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| 8 9 | Including Professional Corporations JOHN T. BROOKS, Cal. Bar No. 167793 501 West Broadway, 19th Floor | | | | | | |
| 10 | San Diego, California 92101-3598 Telephone: 619.338.6500 | | | | | | |
| 11 | Facsimile: 619.234.3815 Email: jbrooks@sheppardmullin.com | | | | | | |
| 12 | Attorneys for Defendant | DIC | | | | | |
| 13 | KAISER FOUNDATION HEALTH PLAN, | INC. | | | | | |
| 14 | UNITED STATES DISTRICT COURT | | | | | | |
| 15 | NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION | | | | | | |
| 16 | GRACE SMITH and RUSSELL RAWLINGS, on behalf of themselves and | Case No. 4:21-cv-07872-HSG | | | | | |
| 17 | all others similarly situated, and CALIFORNIA FOUNDATION FOR | HEALTH I | NT KAISER FOUNDATION PLAN, INC.'S NOTICE OF | | | | |
| 18 | INDEPENDENT LIVING CENTERS, a California nonprofit corporation, | COMPEL | AND MOTION TO INDIVIDUAL | | | | |
| 19 20 | Plaintiffs, | PROCEED | TION AND STAY DINGS | | | | |
| 21 | V. | Date: Time: | April 28, 2022 2:00 p.m. | | | | |
| 22 | MARY WATANABE, in her capacity as Director of the California Department of | Room: Judge: | 2 Hon. Haywood S. Gilliam, Jr. | | | | |
| 23 | Managed Health Care; CALIFORNIA DEPARTMENT OF MANAGED | | | | | | |
| 24 | HEALTH CARE; and KAISER FOUNDATION HEALTH PLAN, INC., | | | | | | |
| 25 | Defendants. | | | | | | |
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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Russell Rawlings' claims and stay this action.

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on April 28, 2022, at 2:00 p.m., or as soon

District Court for the Northern District of California, Oakland Courthouse, located at 1301

Clay Street, Oakland, CA 94612, Defendant Kaiser Foundation Health Plan, Inc. (Kaiser")

will and hereby does move to compel individual arbitration of Plaintiffs Grace Smith's and

be compelled to abide by their membership agreements to individually arbitrate their clams

arbitration provisions, which also incorporate the binding arbitration provisions contained

in their evidence of coverage documents for their respective plans. Further, the arbitration

individual basis because the arbitration provisions do not provide for arbitration on a class-

This Motion is based on this Notice of Motion and Motion, the accompanying

Memorandum of Points and Authorities filed with this Notice, the Declaration of Deborah

Espinal, the Declaration of Alexander Kuljis, the exhibits attached to the declarations, all

pleadings, papers and other documentary materials in the Court's file for this action, those

matters of which this Court may or must take judicial notice, and such other matters as this

against Kaiser. During enrollment, both Ms. Smith and Mr. Rawlings singed valid

provisions encompass their claims here, which challenge Kaiser's coverage for

wheelchairs. Kaiser respectfully requests that the Court compel arbitration on an

Kaiser brings this Motion on the grounds that Ms. Smith and Mr. Rawlings should

thereafter as the matter may be heard, in Courtroom 2, 4th floor, of the United States

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wide basis.

Court may consider.

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Case No. 4:21-cv-07872-HSC

| 1 | Dated: February 4, 2022 | | | |
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| 4 | | By | /s/ A. Alexand | |
| 5 | | | MOE KESHA JOHN T. BR A. ALEXANDE | VARZI OOKS |
| 6 | | | | |
| 7 | | | Attorneys for I KAISER FOUNDATION I | Jefendant JEALTH PLAN, INC. |
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